**HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.2443 OF 2005.**

Hiraman @ Balu Sadashiv Dhakane. ...Applicant.

V/s.

The State of Maharashtra. ...Respondent

Shri Z.M.Avhad, for applicant.

Shri A.S.Gadkari, APP, for respondent.

**CORAM: A.M.KHANWILKAR,J**
**DATE : MAY 3, 2005**

**P.C. :-**

1. Heard the counsel for the parties on merit. Perused the record.

2. There is evidence on record to indicate complicity of the applicant in the commission of the crime.

3. To get over this position, the counsel for the applicant contends that the evidence which is on record is of no avail. According to him, in the F.I.R. no name has been recorded of any of the accused except Anand. In the supplementary statement, however, the name of the applicant has been mentioned, but no specific role is ascribed to the applicant. Besides,

no identification test has been held. The counsel for the applicant contends that there was no legal evidence to indicate complicity of the applicant in the commission of the crime. Reliance is placed on the decision of the Apex Court reported in **AIR 1979 Supreme Court 1127, in the case of Kanan & Ors. V/s State of Kerala.**

4. I shall first deal with the decision of the Apex Court which is pressed into service. The exposition in the said case is on the basis of fact situatiuon of that case, and the material on record adduced by the parties during the course of trial. In the present case, however, we are at the stage of bail. Besides, the conduct of identification parade, is essential where the accused is an unknown person and if that is not done then the court may proceed to release the accused on bail. However, in the present case, the applicant is not an unknown person as such. He is resident in the same vicinity. The complainant has mentioned name of one of the assailants as Anand. On arrest of Anand, he disclosed the name of other persons who were accompanying him. The other accused were arrested on the basis of clue given by the co-accused Anand. After arrest, when the applicant was brought to the police station, the complainant identified him as

having participated in the offence which fact is noted in the supplementary statement recorded on the same day. In view of the fact that the applicant is resident of same vicinity and was otherwise known to the complainant except his name, the question of holding test identification parade in such situation may not arise. Besides, version of the complainant, there is also evidence of witnesses Mahendra Ramkrishna Pagar and Ketan Premchand Kamat. Both have named the applicant and other accused participating in the offence.

5. Having regard to the evidence on record, it is not possible for this court to take a view that there is no material to indicate complicity of the applicant in the commission of the offence. The learned APP also brought to my notice, the order of this court rejecting bail application, in the case of co-accused Chandrahas Jadhav who has played similar role, as that of applicant. Accordingly, this application should fail and the reason recorded by the court below for rejection of prayer for bail of applicant is upheld. Dismissed.

6. As prayer for bail is rejected, Sessions Judge, Nasik is directed to assign the case to Fast Track

Court to ensure early disposal of the trial. In case, it is not possible to assign the case to Fast Track Court, for any reason, whatsoever, the Trial Judge shall proceed expeditiously, by treating the case as High court expedited case.

7. In the event, the Trial court is of the opinion that the applicant is responsible for delay in trial, in any manner, that fact be recorded in roznama, which will be taken into account, as and when necessary.